IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

C.W.P. No. 18398 of 2005
Date of Decision: Sept. 12 ,2006

Naveen Kumar and others ..... Petitioners

Versus

State of Haryana and others ..... Respondents

Coram: Hon'ble Mr. Justice Ashutosh Mohunta
Hon'ble Mrs. Justice Nirmal Yadav

Present: Mr. J.K.Goel, Advocate
for the petitioners.

Mr. S.K.Bishnoi, Sr. DAG, Haryana,
for respondent Nos. 1 and 3.

Mr. Ajay Nara, Advocate for HUDA.

...

ASHUTOSH MOHUNTA, J.

This judgment shall dispose of C.W.P. Nos. 18398, 18406, 19344, 19815, 19817 of 2005, 1847, 2638,, 2619 and 2586 of 2006 as in all these writ petitions the petitioners have prayed for quashing of the notifications dated 9.8.2002 and 8.8.2003 issued under Sections 4 and 6 of the Land Acquisition Act (for short `the Act') as well as the award dated 5.8.2005.

Briefly the facts of the case are that the Urban Estate Department, Haryana, issued a notification under Section 4 of the Land Acquisition Act by which it was proposed to acquire land of village Patti Kaisth Seth, Kaithal, Hadbast No.24, Tehsil & District Kaithal, for the development and utilisation of land as residential, commercial and institutional for Sector 21, Kaithal. As per this notification, total land measuring 294.08 acres was proposed to be acquired. The petitioners and other land-owners filed their objections under Section 5-A of the Act wherein it was averred that the lands of the petitioners are situated within the Municipal area and residential plots and as the purpose of acquisition is also residential, therefore, the plots of the petitioners be released from acquisition. The objections filed by the land-owners were duly considered and on consideration, an area of 16.62 acres was released from acquisition and, thus, the declaration under Section 6 of the Act was issued vide notification dated 8.8.2003 by

which an area measuring 277.46 acres was acquired.

It has been argued that the lands of the petitioners are situated very close to the Radha Swami Satsang Colony which has been exempted from acquisition. It has further been averred that the plots of the petitioners are situated in-between the constructed houses which have not been acquired by the respondent authorities and, thus, the lands of the petitioners are also liable to be released from acquisition. It has also been argued by the learned counsel that the respondent authorities have adopted a pick and choose policy and have acted in a discriminatory manner while acquiring the lands of the petitioners. Lot of stress and emphasis was laid on behalf of the petitioners by referring to the site-plan (Annexure P-9) and the petitioners have tried to demonstrate that lands of various persons situated near to the lands of the petitioners have been left out from acquisition whereas the petitioners' plots have been acquired.

Written statement has been filed on behalf of the respondents wherein it has been averred that the objections filed under Section 5-A of the Act by the petitioners were duly considered and on consideration whereever houses had been constructed the same have been left from acquisition whereas all vacant lands have been acquired. It has categorically been averred that none of the petitioners in any of the aforementioned writ petitions had raised any construction on their plots and, therefore, as the lands were vacant, hence they have been acquired for the public purpose. It has further been stated that no pick and choose policy has been adopted by the authorities in releasing and acquiring the land and no discrimination has been done with any of the land-owners.

A perusal of the site-plan shows that whoever had constructed their houses on the acquired land, their areas have either not been acquired or have been released from acquisition on consideration of the objections under Section 5-A of the Act. A perusal of the site-plan (Annexure R-1) shows that there were 18 houses which were constructed on the acquired land and all these have been released from acquisition. All the other lands which were vacant have been acquired. The lands of the petitioners were also vacant and, therefore, have not been left out of the acquisition. Only some of the plots which have no other construction apart from a boundary wall have also been acquired. Thus, it is clear that the respondents have not

adopted any pick and choose policy in acquiring and releasing the lands of various land-owners and no discrimination has been done with any of the land-owners. The objections filed by the petitioners have been considered properly by the authorities.

Apart from the above, the land in question has been acquired for public purpose i.e. for residential, commercial and institutional in Sector -21, Kaithal, and award has also been passed on 5.8.2005 and compensation has been awarded to the land-owners. There is no illegality in the issuance of notifications under Sections 4 and 6 of the Act as only vacant lands have been acquired by the respondents.

In view of the above, we find no merit in these writ petitions and the same are dismissed.

(ASHUTOSH MOHUNTA)
JUDGE

12.9.2006 **(NIRMAL YADAV)**
Rupi **JUDGE**